

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CRYSTAL MARTINO, on behalf of A.R.C.,
Plaintiff,

COMPLAINT

-VS-

NANCY A. BERRYHILL, Acting Commissioner
Social Security Administration,
Defendant.

CASE NUMBER:

COMES NOW, the Plaintiff, Crystal Martino, on behalf of A.R.C., by and through her attorneys, Legal Aid Society of Mid-New York, Inc., Elizabeth Krupar, of counsel, and as and for a complaint, alleges as follows:

I. PRELIMINARY STATEMENT

1. This is an action brought by an applicant for Disability and Supplemental Security Income benefits (SSI) under Title XVI of the Social Security Act.

2. Plaintiff seeks to have the decision of the Commissioner, which denied her claim for SSI benefits, reversed because the decision is not supported by substantial evidence and because it is in violation of the Social Security Act and the Commissioner's regulations promulgated thereunder.

II. JURISDICTION

3. Jurisdiction is conferred upon this Court by 42 U.S.C. § § 405(g), and 1383 (c), as there has been a final decision by the defendant Commissioner after a hearing to which the Commissioner was a party.

4. The action is brought in the United States District Court for the judicial district in which

the Plaintiff resides.

III. PARTIES

5. The Plaintiff, A.R.C., is a minor, a citizen of the United States, and currently resides in Syracuse, NY and in the Northern District of New York. The Plaintiff's Social Security Number is --/--/6993. The Plaintiff's mother, Crystal Martino, who is bringing this action on behalf of A.R.C., is also a citizen of the United states and currently resides in Syracuse, NY and in the Northern District of New York.

6. The Defendant is the Commissioner of the Social Security Administration and at all times alleged herein was acting in the exercise of her official duties.

IV. FACTUAL ALLEGATIONS

7. The Plaintiff was born on October 15, 2005, and is currently twelve years old.

8. On September 3, 2014, applications for Disability and Supplemental Security Income (SSI) (Title XVI) were protectively filed on behalf of the Plaintiff, a child under age 18, alleging disability beginning January 1, 2011.

9. The Plaintiff's applications for Social Security benefits were denied initially, and she filed a timely request for a hearing before an Administrative Law Judge.

10. On January 12, 2017, a video hearing on the Plaintiff's claim was held, Plaintiff in Syracuse, New York, and Administrative Law Judge David Begley, in Alexandria, Virginia.

11. On May 12, 2017, ALJ Begley issued a decision denying the claim for SSI. A copy of that decision is attached as Exhibit A.

12. In his decision, ALJ Begley determined that the Plaintiff was currently a school-age child; that she had not engaged in substantial gainful activity since September 3, 2014, the alleged

onset date; that the medical evidence establishes that the Plaintiff suffers from severe impairments: unspecified anxiety disorder, attention deficit hyperactive disorder (ADHD), bipolar disorder, oppositional defiant disorder, and unspecified learning disorder; that her impairments or combination thereof did not meet or medically equal any listing found in 20 C.F.R. Pt. 404, Subpart P, Appendix 1; and that her impairments or combination thereof did not functionally equal the severity of the listings. The ALJ thus concluded that the Plaintiff was not under a disability as defined by the Social Security Act, and therefore, not eligible for Title XVI benefits.

13. This decision was timely appealed to the Appeals Council, which on April 12, 2018, issued an order denying the request for review. A copy of that Order is attached as Exhibit B. The decision of ALJ Begley became the final determination of the Defendant Commissioner.

14. The Plaintiff has thus exhausted her administrative remedies.

FIRST CLAIM FOR RELIEF

15. The final decision of the Commissioner that the Plaintiff was not, and is not under a disability, and therefore not eligible for SSI benefits, is not supported by substantial evidence.

SECOND CLAIM FOR RELIEF

16. The final decision of the Commissioner that the Plaintiff was not, and is not under a disability and therefore not eligible for social security benefits is erroneous as a matter of law.

WHEREFORE, the Plaintiff respectfully requests judgment in her favor:

1. Reversing the final decision of the Commissioner denying her claim for SSI benefits and remanding this action to the Commissioner solely for the purpose of calculating and paying benefits.

2. In the alternative, remanding this case for supplemental administrative proceedings as may be appropriate.

3. Award an attorney's fee and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (a) and (d), or any successor legislation.

4. Award such other and further relief as this Court may deem just and proper.

Dated: May 11, 2018

s/ Elizabeth Krupar

Elizabeth Krupar Bar Number: 520633

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